



WEB COPY



W.P.No.19993 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.01.2024

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P. No.19993 of 2020

A.Kannadasan

Vs.

Petitioner

1. The Managing Director,
TWAD Board, Head Office,
Chepauk, Chennai - 600 005.

2. The Joint Chief Engineer (General),
TWAD Board, Head Office,
Chepauk, Chennai - 600 005.

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents to refix the petitioner's pay as per the orders passed by the Government in G.O.Ms.No.762, Finance (Pay Cell) Department, dated 20.08.1986 and the order passed by the Respondent Board in B.P.Ms.No.505, dated 12.12.1986 by considering the petitioner's representation dated 22.02.2018 in the light of the order passed by the Madurai Bench of this Court in W.P.(MD) Nos.8266 of 2010, 13764 of 2011 and 10279 to 10284 of 2015 dated 31.10.2019.



W.P.No.19993 of 2020

For Petitioner : Mr.P.Mohanraj
For Respondents
For R1 : Ms.S.Shahila Banu
For R2 : No appearance

ORDER

The petitioner who was working as a Record Clerk at TWAD Board, Project Division, Thanjavur, retired from service on 31.01.2019. The Government of Tamil Nadu had issued G.O.Ms.No.762, Finance (Pay Cell) Department, dated 20.08.1986 pursuant to the recommendation of the One Man Committee. As per the said Government Order, the persons who are in service with SSLC pass having ITI Certificate are entitled to get salary in the ordinary Grade Scale of Rs.610-1075 and Selection Grade Scale of Rs.705-1230. Similarly, the persons who failed SSLC with ITI Certificate are entitled to get salary of Rs.555-970 and selection Grade of Rs.610-1075. In fact, the respondent TWAD board had adopted the said G.O.Ms.No.762, Finance (Pay Cell) Department, dated 20.08.1986, through its proceedings in B.P.Ms.No.505, dated 12.12.1986. Since the said Board proceedings were not implemented, the Trade Union raised an



W.P.No.19993 of 2020

Industrial Dispute before the Labour Court, Tirunelveli in I.D.No.147

WEB COPY /1993, in which an Award has been passed on 07.11.1996 to fix the scale of pay to the employees who are covered under the said Government Orders as per the scales of pay allowed therein. After much persuasion, the Board has implemented the orders passed in B.P.Ms.No.505 in respect of few employees alone; but the similarly placed persons like the petitioner were not given with the benefits.

2. In fact, some of the persons who are aggrieved, have filed Writ Petition in W.P.(MD).No.8266 of 2010 and batch and the same were allowed on 31.10.2019 in terms of G.O.Ms.No.762, Finance (Pay Cell) Department, dated 20.08.1986 and also the Board proceedings in B.P.Ms.No.505 dated 12.12.1986 and directions have been issued to refix the Scales of pay by implementing the said proceedings and the Award of the Labour Court.

3. Mr.P.Mohanraj, learned counsel for the petitioner submitted that the benefit of the Government Order, Award of the Labour Court and the



W.P.No.19993 of 2020

orders passed in the Writ Petitions in respect of similarly placed persons are squarely applicable to the petitioner and hence, the Writ Petition is liable to be allowed.

4. Ms.S.Shahila Banu, learned counsel appearing for the respondents submitted that the petitioner has not passed SSLC and that he is SSLC fail with ITI Certificate.

5. However, the petitioner does not claim that he had passed SSLC and that he has to be given with the Scale of pay meant for the persons who are holding the Certificate of SSLC pass. The limited prayer sought for by the petitioner is that he is entitled to revise the scale of pay to Rs.555-970 and selection Grade of Rs.610-1075 which is applicable to SSLC fail with ITI Certificate. The eligibility of the above scale of pay for those persons who failed in SSLC and possessing ITI Certificate has not been denied by the respondents also.



W.P.No.19993 of 2020

WEB COPY

6. It is pertinent to mention that the Labour Court, Tirunelveli has passed an Award in I.D.No.147/1993 on 07.11.1996 and the said benefit has also been granted to similarly placed persons in W.P.Nos.8288 of 2010 batch. A portion of the orders passed by the Madurai Bench of this Court in W.P.No.8266 of 2010 batch case are extracted hereunder:

“7.The prime contention of the respondent in this case is that the petitioners are not entitled to the benefit of G.O.Ms.No.762 by referring to the Annexure to G.O.Ms.No.762. The learned counsel for the respondent would submit that Helper is not a post which was identified to confer the benefit of G.O.Ms.No.762. It is further stated that the petitioners herein are all appointed in the post of Helper which was later re-designated as Assistant Driller. Since the post of Helper or Assistant Driller was not specified in the Government Order, it was suggested that the petitioners are not entitled to the benefit of G.O.Ms.No.762. Though the counsel for the respondent submitted that the award of Labour Court in I.D.No.147 of 1993 cannot be applied to the case of petitioners who are not parties therein, in view of the pronouncement of order by this Court in W.P. (MD).No.6033 of 2012, dated 29.11.2016, which was confirmed later by a



W.P.No.19993 of 2020

Division Bench of this Court in Review Application No.137 of 2019, dated 18.09.2019, the contention of the respondent cannot be accepted. Though the learned counsel for respondent would rely upon a judgment of Division Bench of this Court in a batch of writ petitions in W.P.(MD).No.15798 to 15800 of 2010, dated 17.10.2012, this Court is unable to follow the same as a precedent as it was held by the Division Bench that the decision in I.D.No.147 of 1993 cannot be applied to the case of petitioners therein as they are not parties to the Industrial Dispute. The Bench has not considered the fact that the Industrial Dispute was raised by the union on behalf of the workers who are similarly placed. It is also to be seen that the writ petitions were dismissed mainly on the ground that the petitioners therein who claimed the benefits of subsequent board proceedings dated 04.12.1997 is not entitled to the benefit of G.O.Ms.No.762 or Board proceedings B.P.Ms.No. 505, dated 12.12.1986. The reading of judgment of Division Bench appears to be one ignoring the factual issues and the legal implications of the award of Labour Court in I.D.No.147 of 1993. Hence, this Court is unable to accept the contention of the respondent to consider the same as a precedent to be applicable in individual cases dealt with in this batch.

8.Considering the decisions of respondent in several



W.P.No.19993 of 2020

individual cases extending the benefit of G.O.Ms.No.762, dated 26.08.1986 following the order of Labour Court and the Board Proceedings and the judgment of this Court in several other cases, this Court has no hesitation to allow all these writ petitions.

9.As a result, these writ petitions are allowed. The orders of respondents impugned in the writ petitions are set aside. The respondents are directed to re-fix the scale of pay as Rs.610 w.e.f. 21.11.1986 and by implementing the proceedings of the first respondent, dated 12.12.1986 in B.P.Ms.No. 505 and to refix the scale of pay as per the award passed in I.D.No.147 of 1993, dated 07.11.1996 and to pay all other monetary benefits which are applicable to the petitioner by virtue of revision of pay within the period of 12 weeks from the date of receipt of the copy of this order.”

7. Since the petitioner's case is no way different from that of the persons involved in the above Writ Petitions, he is squarely found to be eligible to get the benefits of the Award of the Labour Court in I.D.No.147/1993, dated 07.11.1996 in terms of G.O.Ms.No.762, Finance (Pay Cell) Department, dated 20.08.1986 and B.P.Ms.No.505, 12.12.1986.



W.P.No.19993 of 2020

8. In the result, this Writ Petition is allowed. The respondents are directed to extend the benefits of the Award of the Labour Court in I.D.No.147/1993, dated 07.11.1996 in terms of G.O.Ms.No.762, Finance (Pay Cell) Department, dated 20.08.1986 and B.P.Ms.No.505, 12.12.1986 to the petitioner, if he is otherwise eligible. No costs.

19.01.2024

Index: Yes / No
Speaking order / Non-speaking order
vum



W.P.No.19993 of 2020

To:

WEB COPY

1. The Managing Director,
TWAD Board, Head Office,
Chepauk, Chennai - 600 005.
2. The Joint Chief Engineer (General),
TWAD Board, Head Office,
Chepauk, Chennai - 600 005.



WEB COPY



W.P.No.19993 of 2020

R.N.MANJULA ,J.

vum

W.P. No.19993 of 2020

19.01.2024